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5 Attorneys for Plaintiff JPM ENERGY, INC., a California Corporation

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

11 JPM ENERGY, INC. ) CASE Number:  
12 Plaintiff )  
13 v. )  
14 1SOLTECH INC., )  
15 Defendant )  
16 )  
17 )  
18 )  
19 Plaintiff complains of defendants and for causes of action alleges:  
20 **JURISDICTION AND VENUE**  
21 1. This is a breach of commercial contract action for sale of electronic parts used to make  
22 solar panels and plaintiff seeks damages of \$615,625 exclusive of interest and costs which is in  
23 excess of the minimum jurisdictional amount in controversy. There is complete diversity among  
24 plaintiff and defendant as each are citizens of a different state. The jurisdiction of this Court  
25 over this matter is predicated on 28 USC §1332.  
26 2. Intradistrict Assignment, venue, is predicated on the facts that the plaintiff resides in this  
27 district with all transactions and claims arising in this district. Defendant is a Texas corporation  
28 doing business throughout the United States of America. Furthermore, there is a signed written

1 contract with a forum selection clause designating this district for all disputes between parties and  
 2 to apply California law, reflected in the Master Solar Cell Sales Agreement with Invoices in  
 3 Section 7.12.

4 **PARTIES**

5 3. Plaintiff, JPM ENERGY, INC, (hereinafter "JPM ENERGY" or "Plaintiff"), is now, and  
 6 at all times mentioned in this complaint was, a corporation organized and existing under the laws  
 7 of the state of California with its principal place of business in the County of Alameda and later  
 8 City of Burlingame and County of San Mateo.

9 4. Plaintiff is informed and believes and thereby alleges that defendant 1SOLTECH, INC.,  
 10 (hereafter "1SOLTECH"), is now, and at all times mentioned in this complaint was and is, a  
 11 corporation organized and existing under the laws of the state of Texas with its principal place of  
 12 business in Dallas, Texas.

13 5. At all time relevant to this action, Hossein "Zak" Fardi, Executive Vice-President, Sandy  
 14 Fardi, Chief Executive Officer, and Patricia Strandberg, Chief Financial Officer were or are  
 15 agents, employees, executives of 1SOLTECH and was acting within the scope of said agency,  
 16 and employment with the knowledge and consent and ratification of defendant, 1SOLTECH in  
 17 doing the things alleged in this complaint.

18 **FACTS COMMON TO MORE THAN ONE CAUSE OF ACTION**

19 6. At all times mentioned herein, Plaintiff JPM ENERGY is a family operated start-up  
 20 distributor of solar cells, a component for manufacturing Photo Voltaic ("PV") solar panels  
 21 which convert sunlight into electricity, located in the San Francisco Bay Area.

22 7. At all times mentioned herein, 1SOLTECH is a Texas based solar panel manufacturer  
 23 with sales throughout the United States, including the San Francisco Bay Area. As such,  
 24 1SOLTECH was and continues to be a yearly exhibitor, with executives conducting business  
 25 (buying, selling and advertising) at the San Francisco Moscone center Solar Convention.

26 8. As result of visiting 1SOLTECH's business exhibit at the San Francisco Solar  
 27 Convention, in or about March 28, 2011, JPM ENERGY entered into a "Master Solar Cell Sales  
 28 Agreement with Invoices" (hereafter "MSA") to supply solar cells to defendant 1SOLTECH

1 with the point of sale or F.O.B., as San Francisco, California with quantity and price of cell to be  
2 set at the time of each order reflected in an commercial invoice. Attached hereto is the MSA as  
3 Exhibit "1" as fully set forth and incorporated herein as if set out word for word and created in  
4 the usual course of business.

5 9. At all time mentioned herein, only defendant 1SOLTECH became UL certified to  
6 manufacture and sell in the United States solar panels using JPM ENERGY distributed brand and  
7 specific wattage category of high yield solar cells which is the subject matter of this action.

8 10. To fulfill its production needs, on or about August 16, 2011, defendant 1SOLTECH  
9 agreed to buy and JPM ENERGY agreed to sell solar cells for \$519,566, causing JPM ENERGY  
10 to buy and import those cells from South, Korea to SFO for pick-up in San Francisco by  
11 1SOLTECH on or about August 25, 2011. Attached invoice BC20110816JPM for \$519,566 is  
12 hereto as Exhibit "2" as fully set forth and incorporated herein as if set out word for word and  
13 created in the usual course of business.

14 11. On or about August 25, 2011, 1SOLTECH picked-up its purchase of solar cells at JPM  
15 ENERGY's SFO warehouse in Burlingame, California, reflected in invoice BC20110816JPM for  
16 \$519,566 and transported it at its own expense to their Texas solar panels factory.

17 12. On August 23, 2011, by defendant 1SOLTECH placed an additional order of solar cells,  
18 doubling the quantity at the same price rate and agreed to buy and JPM ENERGY agreed to sell  
19 solar cells for another \$519,566, causing JPM ENERGY to buy and import those cells from  
20 South, Korea to SFO for pick-up in San Francisco by 1SOLTECH on or about September 15,  
21 2011 Attached invoice BC20110823JPM hereto as Exhibit "3" as fully set forth and incorporated  
22 herein as if set out word for word and created in the usual course of business.

23 13. On September 21, 2011 when full payment was not received for the first invoice,  
24 BC20110816JPM, an email demanding full payment of \$519,566 was sent to Sandy Fardi, C.E.O  
25 and Zak Fardi, Executive Vice President, resulting in a wire payment by 1SOLTECH of \$10,000  
26 to JPM ENERGY on October 24, 2011.

27 14. Thereafter, from October 2011 to 2013, JPM ENERGY worked cooperatively with  
28 1SOLTECH's executives, Ms. Patricia Strandberg, C.F.O, along with the C.E.O and Executive

1 Vice President, resulting in payments totaling \$193,803.75, towards the first invoice  
2 BC20110816JPM, leaving an outstanding balance of \$325,762.25 as of June 4, 2013.

3 15. From October 2011 to June 4, 2013, Hossein "Zak" Fardi, Executive Vice-President  
4 made repeated representations to JPM ENERGY that contract invoices BC20110816JPM and  
5 BC20110823JPM would be fulfilled in full and Mr. Fardi's representations were memorialized  
6 in numerous emails by plaintiff to 1SOLTECH's CEO, CFO and Executive Vice-President.

7 16. From October 2011 to June 4, 2013, every payment made by 1SOLTECH to JPM  
8 ENERGY was reflected in a contemporaneous email from JPM ENERGY or its legal counsel to  
9 the CEO, CFO and Executive Vice-President stating the date, amount of payment and unpaid  
10 outstanding balance on invoice BC20110816JPM.

11 17. After June 4, 2013, despite demands for some form of good faith payment, seeking  
12 cooperative resolution, 1SOLTECH made no further payments, requiring this action.

13 18. At all times mentioned herein, Hossein "Zak" Fardi, Executive Vice-President signed  
14 Exhibits "1" "2" and "3" during the normal course of business for defendant 1SOLTECH.

15 **FIRST CAUSE OF ACTION**

16 **BREACH OF CONTRACT FOR INVOICE BC20110816JPM**

17 **(CACI 303, California Civil Code §1549)**

18 As a first, separate and distinct cause of action, plaintiff complains against defendant and  
19 for a cause of action alleges:

20 19. The allegations of paragraphs 1 through 11 and 13 through 18 are realleged and  
21 incorporated herein by reference as though fully set forth.

22 20. Plaintiff and defendant entered into a contract as reflected in the MSA and INVOICE  
23 BC20110816JPM.

24 21. Plaintiff JPM ENERGY did all, or substantially all, of the significant things that the  
25 contract required it to do when after receiving a signed invoice, Exhibit "2", from defendant, it  
26 purchased and imported of solar cells to San Francisco, California for 1SOLTECH to pick-up.  
27

1 22. All conditions required by the contract for defendant 1SOLTECH's performance had  
2 occurred.

3 23. That defendant 1SOLTECH failed to pay in full for solar cells purchased and picked-up  
4 in San Francisco, California, reflected in invoice BC20110816JPM.

5 24. As of the filing of this lawsuit, Plaintiff suffered damages legally caused by defendant's  
6 failure to pay for supplies or goods purchased, as there is an unpaid outstanding balance of  
7 \$325,762.25 on invoice BC20110816JPM.

9 **SECOND CAUSE OF ACTION**

10 **BREACH OF CONTRACT INVOICE BC20110823JPM,**

11 **(CACI 303, California Civil Code §1549)**

12 As a second, separate and distinct cause of action, plaintiff complains against defendant  
13 and for a cause of action alleges:

14 25. The allegations of paragraphs 1 through 18 are realleged and incorporated herein by  
15 reference as though fully set forth.

16 26. Plaintiff and defendant entered into a contract as reflected in the MSA and INVOICE  
17 BC20110823JPM.

19 27. Plaintiff JPM ENERGY did all, or substantially all, of the significant things that the  
20 contract required it to do when after receiving a signed invoice, Exhibit "3", from defendant, it  
21 purchased and imported solar cells to San Francisco, California, for 1SOLTECH to pick-up.

22 28. All conditions required by the contract for defendant 1SOLTECH's performance had  
23 occurred.

25 29. That defendant 1SOLTECH failed to pay in full for solar cells it purchased and that was  
26 made available for pick-up in San Francisco, California, while promising up to the time of  
27 breach in June 2013 that 1SOLTECH would fulfill its contract reflected in invoice  
28 BC20110823JPM.

1 30. Plaintiff suffered damages legally caused by defendant's failure to pay for supplies or  
2 goods purchased and held in storage for defendant at its insistence that defendant would fulfill  
3 the contract reflected in INVOICE BC20110823JPM, resulting in damages of \$289,862.  
4 (\$519,566 contract price minus \$229,703 average market price per watt for cells in third quarter  
5 of according to 2013 SEIA survey of .42 per watt multiplied by 546,912 watts ordered).  
6

7 31. As further proof of damages, Plaintiff is informed and believes and there on allege that  
8 defendant purchased similar solar cells from other vendors in the third quarter of 2013 for  
9 approximately .42 per watt or less.

10 **PRAYER**

11 Wherefore plaintiff prays for damages against defendants as follows:

12 1. For first cause of action a money judgment damages of \$325,762., representing  
13 outstanding balance of unpaid invoice number one;

15 2. For second cause of action a money judgment damages of \$289,862., representing the  
16 difference in price between the contract sales price and the average market price for resale after  
17 breach in the third quarter of 2013;

18 3. For costs of suit;

19 4. For both causes of action, late payment penalties of 18% per year and postjudgment  
20 interest under California law;

22 5. Alternatively for both causes of action, for 10% per year prejudgment and postjudgment  
23 interest according to California law; and

24 6. For any other relief that is just and proper.

25 DATED: July 7, 2014

HENRY KU, ATTORNEY AT LAW

27 By: \_\_\_\_\_/S/ \_\_\_\_\_  
28 HENRY Y. KU, Counsel for Plaintiff